

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION

T.J., O.J., D.J., and J.J., infants by their)
next friend, Tasha Hudson)
v.) Docket No. 3:18-cv-00096
JON FREIVALD and JOHN DOE,)
Defendants.)
)

JOINT PETITION PURSUANT TO VA. CODE § 8.01-424
FOR APPROVAL OF INFANT SETTLEMENT

COME NOW the parties, by their respective counsel, and Plaintiffs also by their next friend and mother, and move the Court to accept the settlement they have reached resolving all claims in this action. The parties represent as follows:

1. A lawsuit was filed by Ms. Tasha Hudson, as next friend, for her minor children (T.J., O.J., D.J., J.J.) wherein Ms. Hudson alleges that her named minor children suffered injuries and damages as a result of the acts or omissions of the Defendant (Jon Freivald) during a traffic stop that took place on or about October 7, 2016 in Nelson County, Virginia;
2. It was alleged that the minor children suffered emotional damages/injuries as a result of the acts and/or omissions of Defendant Freivald during said traffic stop on or about October 7, 2016;
3. Defendant Freivald has denied any liability and has contested both the legal and factual basis of this civil suit, including any injuries alleged by Plaintiffs;

4. Defendant Freivald is uninsured as to this claim and Plaintiffs' ability to collect any judgment which they might recover is doubtful as any sums paid in judgment or settlement are the personal funds of Defendant Freivald;

5. There are significant evidentiary and causation issues with respect to Plaintiffs' alleged injuries;

6. This matter was referred for mediation after cross-motions for summary judgment were denied;

7. The parties participated in a settlement conference with the Magistrate Judge on May 17, 2021.

8. It was agreed at the settlement conference, subject to Court approval, that Defendant Freivald, in exchange for the release of any and all claims against him and while denying any and all liability to the Plaintiffs, would pay Ms. Tasha Hudson, the next friend and mother to O.J., D.J., and J.J. and T.J. (Taliyah Johnson), an infant plaintiff who reached the age of majority during the pendency of this action, the gross settlement amount (including attorney's fees and expenses) of Twenty-Two Thousand Five Hundred and 00/100 Dollars (\$22,500.00) payable to "Jeffrey E. Fogel, Attorney," in full and final settlement of all claims. Tasha Hudson, the mother of the infants named in this civil action, and the next friend of O.J., D.J., and J.J., and Taliyah Johnson, on her own behalf, formerly an infant plaintiff and now having reached the age of majority, all agree to payment in that manner. The settlement amount is to be divided equally amongst the four plaintiffs, after deducting attorney's fees and expenses owed to Plaintiff's attorney, Jeffrey E. Fogel, Esq. incurred as part of this civil suit. Given that Taliyah Johnson has reached the age of majority during the pendency of this Civil Suit, attorney Jeffrey E. Fogel shall provide Ms. Taliyah Johnson with her apportioned settlement amount via

check immediately upon this Court's approval of the Settlement Agreement. The remaining settlement award will be distributed in the following manner: the apportioned settlement shall be held in 3 separate and equal trusts for the three remaining minor plaintiffs in a trust account approved by the Court at the University of Virginia Credit Union (UVA Credit Union). The trusts are to be solely for the benefit of the named minor of that individual trust and shall not be terminated until the named minor reaches the age of 18, at which time the minor may apply for receipt of said settlement funds upon proof that s/he has obtained the age of 18 years. Prior court approval shall be obtained for the termination of any trust and/or distribution of any portion of any of the funds of the named trusts prior to any of the remaining minor plaintiffs reaching the age of majority. Such court approval would require that any trustee of said named trust be subject to the same duty to qualify in the appropriate clerk's office and to file an inventory and annual accountings with the commissioner of accounts as would apply to a testamentary trustee.

The Settlement Agreement and Release of All Claims is attached as Exhibit 1.

WHEREFORE, the parties move the Court to hear this Petition and:

A. Conduct any or all proceedings which may arise in this civil action as it pertains to this petition for approval of infant settlement and submit a report setting forth appropriate findings, conclusions and recommended disposition, pursuant to 28 U.S.C. § 636(b)(1)(B).

B. Approve the settlement amount and the distribution of said funds amongst the four Plaintiffs equally after deducting the attorney's fees and expenses owed to Plaintiff's attorney, Jeffrey E. Fogel, Esq. as well as approve the establishment of separate trust accounts for each of the minor Plaintiffs where the funds shall be held in said trust for the benefit of each individual Plaintiff.

C. That Defendant Freivald, upon payment of all sums agreed (namely, \$22,500.00) be forever released and discharged of any and all liability to the infant Plaintiffs and Taliyah Johnson (now an adult but formerly, the minor, T.J. named in this civil action) or anyone else claiming by and through the infants, including the Commonwealth of Virginia.

Respectfully Submitted,

Taliyah Johnson
By Counsel

J.J., O.J. & D.J.
By Next Friend, Tasha Hudson
By Counsel

JON FREIVALD
By Counsel

/s/
Jeffrey E. Fogel (VSB # 76345)
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/s/
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Counsel for Jon Freivald

MAILING CERTIFICATE

I HEREBY CERTIFY that on the 21st day of June 2021, I electronically filed the foregoing Motion for Approval of Infant Settlement with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to counsel of record: Jeff Fogel, Esq., 913 E. Jefferson Street, Charlottesville, VA 22902 (email: jeff.fogel@gmail.com).

/s/
Bonnie J. Lepold, (VSB #44926)
Counsel for Jon Freivald